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Federal Communications Commission  
Office of Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Implementation of the Non-Accounting ) CC Docket No. 96-149  
Safeguards of Sections 271 and 272 of )  
the Communications Act of 1934 )  
and )  
Regulatory Treatment of LEC Provision )  
of Interexchange Services Originating )  
in the LEC's Local Exchange Area )

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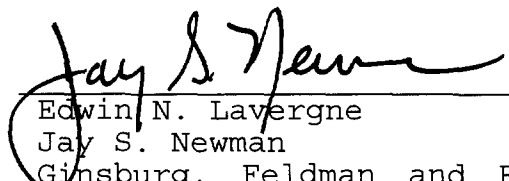
MOTION FOR LEAVE TO FILE LATE-FILED COMMENTS

Pursuant to Section 1.46 of the Commission's Rules, the Interactive Services Association ("ISA") hereby requests leave to file its comments in the above-captioned proceeding two (2) business days late. Although the attached comments and the attached motion for leave to file late-filed comments were prepared and sent via First Class mail to all parties of record on Friday, August 16, 1996, the messenger failed to pick-up and file the comments with the Commission on August 16th. Upon discovering this today, we immediately filed the comments with the Commission.

Respectfully submitted,

INTERACTIVE SERVICES ASSOCIATION

By:

  
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Dated: August 19, 1996

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|                                       |   |                      |
|---------------------------------------|---|----------------------|
| Implementation of the Non-Accounting  | ) | CC Docket No. 96-149 |
| Safeguards of Sections 271 and 272 of | ) |                      |
| the Communications Act of 1934        | ) |                      |
| and                                   | ) |                      |
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| in the LEC's Local Exchange Area      | ) |                      |


**MOTION FOR LEAVE TO FILE LATE-FILED COMMENTS**

Pursuant to Section 1.46 of the Commission's Rules, the Interactive Services Association ("ISA") hereby requests leave to file its comments in the above-captioned proceeding one (1) day late. The ISA has approximately 350 members representing a variety of diverse interests in the interactive services industry. Although a draft of the comments was prepared prior to the due date established in the above-captioned proceeding, counsel for the ISA was unable to obtain final approval in time to meet the August 15th filing deadline. In an effort to ensure that no party will be unfairly prejudiced by the filing of the attached comments, copies of the comments will be sent via First Class mail to all parties of record today.

Respectfully submitted,

INTERACTIVE SERVICES ASSOCIATION

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**Before the  
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| In the Matter of                      | ) |                      |
|                                       | ) |                      |
| Implementation of the Non-Accounting  | ) | CC Docket No. 96-149 |
| Safeguards of Sections 271 and 272 of | ) |                      |
| the Communications Act of 1934,       | ) |                      |
| as amended;                           | ) |                      |
|                                       | ) |                      |
| and                                   | ) |                      |
|                                       | ) |                      |
| Regulatory Treatment of LEC Provision | ) |                      |
| of Interexchange Services Originating | ) |                      |
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**COMMENTS OF THE INTERACTIVE SERVICES ASSOCIATION**

The Interactive Services Association ("ISA") submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding. The NPRM addresses a multitude of issues associated with the entry of the Bell Operating Companies ("BOCs"), through affiliated entities, into telecommunications markets from which they were previously barred.

**INTRODUCTION**

The ISA is the leading trade association devoted exclusively to promoting consumer interactive services worldwide. The association has approximately 350 members representing the full spectrum of industries providing telecommunications-based interactive services to consumers including the advertising, broadcasting, cable television, online, Internet, computer, financial services, interactive television, marketing, publishing, telephone and travel industries.

Although the Commission confronts a variety of important issues affecting the provision of information services, these comments are narrowly focused on the need for the Commission to ensure that once BOC affiliates begin providing their own information services (e.g., audiotext, Internet, voice mail, etc.), BOCs will not discriminate against unaffiliated entities -- particularly in the provision of billing and collection services.<sup>1/</sup> As discussed below, Section 151 of the Telecommunications Act of 1996 ("1996 Act"), as codified at 47 U.S.C. § 272(c)(1), gives the Commission ample authority to ensure that such discrimination does not occur.

#### **DISCUSSION**

Section 272(c)(1) provides that, in its dealings with an affiliate providing information services, a BOC "may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards." This statutory language, by its terms, imposes a flat prohibition on discrimination which is stricter and more comprehensive than the anti-discrimination language of existing Section 202 of the Communications Act, as amended.<sup>2/</sup> By enacting this provision rather than

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<sup>1/</sup> Although beyond the scope of this NPRM, appropriate safeguards may also be needed to govern other (non-BOC) local exchange carriers which offer information services.

<sup>2/</sup> Section 202 makes it unlawful for any common carrier "to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services ...." 47 U.S.C. § 202(a) (emphasis added).

relying on Section 202's safeguards, Congress recognized that competitors of BOC affiliates may need broader and more stringent safeguards than previous law provided.

One of the fundamental purposes of the 1996 Act is to create a level playing field between BOCs and their competitors.<sup>3/</sup> Similarly, a primary purpose of Section 272(c)(1) is to ensure that the entry of a BOC affiliate into a market does not adversely affect competition in that market.<sup>4/</sup> Although the 1996 Act does not define the "goods, services, facilities and information" to which the new prohibition applies, it is self-evident that Section 272(c)(1) should be interpreted to ensure that a BOC does not provide or procure any good, service, facility or information, in a manner which could adversely affect competition in the information services industry.

In view of the foregoing, it is imperative that the Commission apply Section 272(c)(1) to a BOC's provision of billing and collection service for information services. This interpretation is necessary because (i) billing and collection plainly is a "service"; and (ii) discriminatory provision of billing and collection services by a BOC could adversely affect competition in the information services market. Such discrimination could be manifested in a BOC's refund policies, billing dispute notification procedures, or in a decision not to bill for an unaffiliated entity's information services altogether.

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<sup>3/</sup> See Joint Explanatory Statement, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. Preamble (1996).

<sup>4/</sup> NPRM ¶ 13.


**CONCLUSION**

The ISA urges the Commission to clarify that billing and collection services are subject to the anti-discrimination prohibitions of Section 272(c)(1). By doing so, the Commission will promote competition in the information services industry.

Respectfully submitted,

INTERACTIVE SERVICES ASSOCIATION

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